

## **EXHIBIT**

### **INTRODUCTION**

Aera Energy LLC (“Respondent Aera”) is a major donor committee that contributed almost \$32 million to the “Californians Against Higher Taxes – No on Proposition 87” committee (“Recipient Committee”) prior to the November 7, 2006 Statewide General Election. The total amount of contributions received by the Recipient Committee was approximately \$93 million.

This matter arose from self-reporting by Respondent Aera in February of 2007, following notice from the Recipient Committee that Respondent Aera had failed to timely file electronic late contribution reports prior to the November 7, 2006 Statewide General Election. The Enforcement Division’s investigation confirmed that Respondent violated requirements under the Political Reform Act (the “Act”)<sup>1</sup> for the filing of electronic late contribution reports.

For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1:** Respondent Aera Energy LLC failed to electronically file a late contribution report within 24 hours of making late non-monetary contributions totaling approximately \$1,533 by the October 24, 2006 due date, in violation of Government Code Section 84605, subdivision (a).
- COUNT 2:** Respondent Aera Energy LLC failed to electronically file a late contribution report within 24 hours of making a late contribution totaling \$2,500,000 by the October 28, 2006 due date, in violation of Government Code Section 84605, subdivision (a).
- COUNT 3:** Respondent Aera Energy LLC failed to electronically file a late contribution report within 24 hours of making a late contribution totaling \$2,500,000 by the October 31, 2006 due date, in violation of Government Code Section 84605, subdivision (a).

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive

---

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

campaign reporting system designed to accomplish this purpose of disclosure. Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions, including loans, totaling ten thousand dollars (\$10,000) or more in calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

### **Duty to File Late Contribution Reports**

Under Section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must report the late contribution within 24 hours of making or receiving the contribution. Section 82036 defines “late contribution” as a contribution aggregating \$1,000 or more made to or received before an election but after the closing date of the last pre-election campaign statement that is required to be filed before the election. The late contribution period covers the last 16 days before an election. (Sections 84200.7 and 84200.8.)

### **Duty to File Online or Electronically**

In 1997, the Legislature amended the Act to require committees that are significantly active on the state level to file their campaign statements electronically as well as on paper. When doing so, the Legislature specifically declared, as set forth in Section 84601, subdivisions (b) and (c), that “[p]ublic access to campaign disclosure information is a vital and integral component of a fully informed electorate” and that “[a]dvances in technology have made it viable for disclosure statements and reports to be filed online ... thereby maximizing availability to the public.”

The Act therefore sets forth an online campaign disclosure program. Section 84605, subdivision (a) requires a major donor committee to file campaign statements and reports electronically if it makes contributions of fifty thousand dollars (\$50,000) or more in a calendar year. Under Section 84605, subdivision (g), once a person or entity is required to file electronically, it must file all subsequent campaign statements and reports electronically. However, because a major donor committee qualifies and terminates as a committee in each calendar year by operation of law, it is only required to file electronically in any calendar year in which it makes contributions of fifty thousand dollars (\$50,000) or more. (Section 82013, subd. (c), Reg. 18404, subd. (a).)

### **SUMMARY OF THE FACTS**

Respondent Aera first qualified as a major donor committee for the years 2000 and 2001 and then qualified again for the calendar years 2005 and 2006. Respondent Aera has been filing campaign statements electronically since 2001. Respondent Aera filed a paper late contribution report in 2000, but previously had never filed a late contribution report electronically.

Respondent Aera contributed approximately \$32 million to the Recipient Committee prior to the November 7, 2006 Statewide General Election. The total amount of contributions received by the Recipient Committee was approximately \$93 million. Respondent Aera was identified as a funding source on the Recipient Committee's advertisements. The Recipient Committee and Respondent Aera opposed the passage of Proposition 87. Proposition 87 was defeated with 55% of the votes against the measure.

This matter arose from self-reporting by Respondent Aera in February of 2007, following notice from the Recipient Committee that Respondent Aera had failed to timely file electronic late contribution reports prior to the November 7, 2006 Statewide General Election. Respondent Aera's paper reports were timely filed and after being notified Respondent Aera filed its electronic reports immediately.

The total amount which Respondent Aera failed to disclose electronically was approximately \$5 million dollars, all of which was contributed to the Recipient Committee. The late contributions were properly reported by the Recipient Committee. Respondent Aera received a major donor notification letter from the Recipient Committee in January of 2006, ten months before the election. The letter instructed Respondent Aera's filing duties and set forth in detail Respondent Aera's obligation to electronically file late contribution reports.

**COUNTS 1 through 3**  
**(Duty to Timely File Electronic Late Contribution Reports)**

Under section 84203, Respondent Aera was required to file a late contribution report disclosing, within 24 hours of making it, any contribution cumulating \$1,000 more during the late contribution reporting period. Section 84605, subdivision (a) requires that Respondent Aera, as a major donor committee, file campaign statements online or electronically. Respondent Aera had a duty to electronically report making a late contribution report within 24 hours of making the contributions. Respondent Aera failed to file electronically three late contribution campaign reports.

The late contribution reporting period for the November 7, 2006 Statewide General Election was from October 22, 2006 through November 6, 2006. The following table sets forth the date Respondent Aera made each late contribution, the date the late contribution report was due and was filed, the name of the recipient, and the amount of each contribution.

<b>Count</b>	<b>Contribution Date</b>	<b>Due Date of LCR</b>	<b>Date Paper LCR was filed</b>	<b>Date Electronic LCR was Filed</b>	<b>Recipient</b>	<b>Amount of Contribution</b>
<b>1</b>	10/23/06	10/24/06	10/24/06	01/12/07	CA Against Higher Taxes	\$ 1,533
<b>2</b>	10/27/06	10/28/06	10/28/06	01/12/07	CA Against Higher Taxes	\$2,500,000
<b>3</b>	10/30/06	10/31/06	10/31/06	01/12/07	CA Against Higher Taxes	\$2,500,000

**TOTAL:** \$5,001,533

By failing to disclose late contributions in three timely filed electronic late contribution reports, Respondent Aera violated Section 84605, subdivision (a).

### **CONCLUSION**

This matter consists of three counts, which carry a maximum possible administrative penalty of Fifteen Thousand Dollars (\$15,000).

In this matter, Respondent Aera was required to file three late contribution reports in electronic and paper format. Respondent Aera filed these reports on paper but failed to report the contributions in excess of \$5 million electronically. The administrative penalty imposed for contribution reporting violations has historically been determined on a case-by-case basis, and has varied depending on the mix of aggravating and mitigating circumstances. In this matter, in aggravation, the violations involve large contributions that were not timely disclosed in electronic format.

Respondent Aera's violations are mitigated by the fact that it filed paper reports disclosing the contributions, voluntarily filed the three electronic late contributions reports without any prior contact from the Enforcement Division, and self-reported the violations. Respondent Aera was disclosed as a major funding source of the Recipient Committee. Recipient Committee reported Respondent Aera's contributions. There is no evidence that the failure to timely file the three electronic late contributions reports was intentional. In addition, Respondent Committee cooperated fully with the Enforcement Division's investigation in this matter.

The facts of the case and the large amount of unreported late contributions justify imposition of the agreed upon penalty of \$15,000.